



## People v Guyette (Larry)

2018 NY Slip Op 50402(U) (2018) | Cited 0 times | Appellate Terms of the Supreme Court of New York | March 22, 2018

Scott Lockwood, for appellant. Suffolk County Traffic Prosecutor's Office (Justin W. Smiloff), for respondent.

Appeal from five judgments of the District Court of Suffolk County, Suffolk County Traffic and Parking Violations Agency (Martin J. Kerins, J.H.O.), rendered November 13, 2015. The judgments convicted defendant, upon his pleas of guilty, of operating a motor vehicle without an inspection certificate, operating an uninsured motor vehicle, operating an unregistered motor vehicle, operating a motor vehicle without distinctive number license plates, and operating a motor vehicle with improper license plates, respectively.

ORDERED that the judgments of conviction are reversed, on the law, and the matters are remitted to the District Court, Suffolk County Traffic and Parking Violations Agency, for all further proceedings.

On March 13, 2015, a Suffolk County police officer stopped defendant's 2003 Chevrolet on Route 112 in Medford, Town of Brookhaven, Suffolk County. As a result, five simplified traffic informations were filed, charging defendant with operating a motor vehicle without an inspection certificate (Vehicle and Traffic Law § 306 [b]), operating an uninsured motor vehicle (Vehicle and Traffic Law § 319 [1]), operating an unregistered motor vehicle (Vehicle and Traffic Law § 401 [1] [a]), operating a motor vehicle without distinctive number license plates (Vehicle and Traffic Law § 402 [1] [a]), and operating a motor vehicle with improper license plates (Vehicle and Traffic Law § 402 [4]), respectively. Defendant was directed to appear before the Suffolk County Traffic and Parking Violations Agency (SCTPVA).

On November 13, 2015, defendant appeared pro se at the SCTPVA before Judicial Hearing Officer Martin J. Kerins. The prosecutor stated that "[t]his matter was on for trial today and after conferencing with the People, People are willing to dispose of this matter." The prosecutor discussed the proposed fines, surcharges and fees. The following colloquy subsequently occurred:



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On appeal, defendant contends, among other things, that his guilty pleas to the five charges were not made knowingly or voluntarily. This claim does not require preservation, because defendant pleaded guilty and was sentenced at the same proceeding. Thus, he had no opportunity to raise this issue in the court below by moving to withdraw his plea (see *People v Conceicao*, 26 NY3d 375, 381-382 [2015]).

While defendant was informed of the offenses to which he would be pleading guilty, and what the fines and surcharges would be, he never admitted his guilt to the charges. The court did not ask him questions, such as whether he had been driving an uninsured vehicle or an unregistered vehicle. While no catechism is required in connection with the acceptance of a guilty plea, and a plea allocution based on a negotiated plea does not require that a defendant make a specific admission as to each element of the charged offenses (see *People v Goldstein*, 12 NY3d 295, 301 [2009]), here, there was virtually no allocution of the unrepresented, inexperienced defendant. Furthermore, there was no affirmative showing on the record that defendant waived any of his constitutional rights. Thus, it was not established that his plea was entered into voluntarily, knowingly and intelligently (see *People v Conceicao*, 26 NY3d at 382-383; *People v Tyrell*, 22 NY3d 359, 365 [2013]; *People v Fiumefreddo*, 82 NY2d 536, 543 [1993]; *People v Burca*, 58 Misc 3d 147[A], 2018 NY Slip Op 50040[U], \*2-3 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2018]; *People v Jonas*, 42 Misc 3d 135[A], 2014 NY Slip Op 50090[U] [App Term, 1st Dept 2014]).

In view of the foregoing, we need not reach defendant's remaining contentions.

Accordingly, the judgments of conviction are reversed and the matters are remitted to the District Court, Suffolk County Traffic and Parking Violations Agency, for all further proceedings.

MARANO, P.J., GARGUILO and RUDERMAN, JJ., concur.

